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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,051	02/28/2005	Markus Bischof	5255-33PUS	1144
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EXAMINER STRIMBU, GREGORY J				
ART UNIT		PAPER NUMBER		
3634				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/526,051

Applicant(s)

BISCHOF, MARKUS

Examiner

Gregory J. Strimbu

Art Unit

3634

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☒ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date 2/25/05
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on October 25, 2002. It is noted, however, that applicant has not filed a certified copy of the 10250054.1 application as required by 35 U.S.C. 119(b).

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "17" in figure 2, "43" and "48" in figure 8. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to because figure 3 is not shown with the proper cross sectional shading in accordance with MPEP 608.02. In figure 7, it appears that "42"

should be changed to --37--. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the suspension profile (claim 37) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The abstract of the disclosure is objected to because "the movable wall elements" on line 4 improperly implies that the drive unit is mounted on the wall elements. On line 9, "when abutting" is confusing since it is unclear what element of the invention the joining device is abutting. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because it appears that "1and 2" on line 1 of the paragraph beginning on line 21 of page 7 is a typographical error. On line 6 of the paragraph beginning on line 30 of page 7, "and, therefore, the lever arm 13, as is shown in Figure 5" is grammatically awkward and confusing. On line 11 of the paragraph

beginning on line 30 of page 7, "if the connection element 25 were lowered" is confusing since it appears that the connection element should be raised rather than lowered.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 31-61 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "safely" on line 20 of claim 31 render the claims indefinite because it is unclear what comprises "safe" swiveling. Recitations such as "an upper first swivel pin" on line 3 of claim 32 render the claims indefinite because it is unclear how the first swivel pin can comprise both the upper swivel pin and the lower swivel pin. It appears that the second swivel pin comprises one of the lower and upper swivel pins. Recitations such as "a running carriage" on line 2 of claim 37 render the claims indefinite because it is unclear if the running carriage and one of the swivel pins are the same element. It appears that the running carriage and one of the swivel pins are the same element of the invention. Recitations such as "forming one of said at least one first swivel pin" on lines 3-4 of claim 37 render the claims indefinite because they are grammatically awkward and confusing since only one first swivel pin has been set forth above. Recitations such as "said coordinating element" on line 1 of claim 45 render the claims indefinite because they lack antecedent basis. Recitations such as "two locking bevels" on line 2 of claim 45 render the claims indefinite because it is unclear if the two

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locking bevels includes the locking bevel set forth in claim 43 for a total of two locking bevels or if the two locking bevels are in addition to the locking bevel set forth above for a total of three locking bevels. Recitations such as "being articulated by" on line 6 of claim 48 render the claims indefinite because it is unclear how the lower lever arm is articulated by the second swivel pin. Recitations such as "having adjoining projection" on lines 2-3 of claim 49 and "said locking point be adjustable" on lines 2-3 of claim 52 render the claims indefinite because they are grammatically awkward and confusing. Recitations such as "said lower lever arm" on line 2 of claim 53, "said rod linkage" on line 1 of claim 56, "said leaf profile" on line 3 of claim 56, and "said coupling pin" on line 2 of claim 57 render the claims indefinite because they lack antecedent basis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 31, 33-35, 38-42 and 53-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janutta et al. (US 20020066228) in view of Owens (US 5042555).

Janutta et al. discloses a sliding wall 10, comprising:

a plurality of displaceable wall elements 12;

a carrying profile 20 arranged above said wall elements, wherein said wall elements are individually displaceable along said carrying profile, each of said wall

elements having a running roller 21 arranged and dimensioned for guiding said each of said wall elements along said carrying profile;

at least one of said wall elements comprising a rotating leaf 12/2 swivelable about at least one first swivel pin (not shown, but comprising one of the pins of the upper 25/1 as shown in figure 3) and at least one second swivel pin (not shown, but comprising one of the pins of the lower 25/1 as shown in figure 3);

a drive unit 30 stationarily arranged relative to one of said carrying profile and said guide rail;

an actuating mechanism 32, 33, 35, 37 arranged and dimensioned for connecting said drive unit to said rotating leaf for actuating said rotating leaf in response to said drive unit when said rotating leaf is in a position along said carrying profile that is aligned with said drive unit, said actuating mechanism comprising a rod linkage 33; and

a connection device 25 (shown in the upper right hand corner of the wall element 12/2 in figure 3) for automatically connecting a lower area of said at least one of said wall element 12/2 to an adjacent one of said wall elements 12/1 when said at least one of said wall elements and said adjacent one of said wall elements are driven together, whereby said rotating leaf is safely swivelable relative to said at least one of said wall elements; wherein said at least one of said wall elements 12/2 further comprises an upper lever arm (not numbered, but comprising one of the horizontal arms of 25/1 as shown in figure 3) arranged in an upper area of said at least one of said wall elements and a lower lever arm (not numbered, but comprising one of the horizontal arms of 25/1 as shown in figure 1) arranged in a lower area of said at least one of said wall elements;

wherein said upper and lower lever arms are respectively arranged in upper 14 and lower 15 profiles of said at least one of said wall elements 12/2; wherein said upper profile of said at least one of said wall elements comprises a suspension profile 14/2 arranged vertically adjacent to and above a leaf profile 14/1; the upper and lower lever arms are arranged in respective cutout sections of the upper 14 and lower 15 profiles; wherein said connection device 25 comprises two partial elements (not numbered, but comprising the one two horizontal arms as shown in figure 3 and the other of the two horizontal arms and one of the vertical pins as shown in figure 3) which correspond with one another and which are integrated at said at least one of said wall elements 12/2 and said adjacent one of said wall elements 12/1; wherein a first partial element of said two partial elements is a coupling element comprising a flat arm; wherein a second partial element of said two partial elements comprises a fixing element (not numbered, but comprising one of the coupling pins) and a locking element (not numbered, but comprising the other of the two horizontal arms); wherein said fixing element substantially comprises a coupling pin which penetrates said coupling element; the drive unit is arranged adjacent to said guide rail; the connection device 25 comprises a coupling member (not numbered, but comprising one of the horizontal bars as shown in figure 3) and a locking member (not numbered, but comprising one of the vertical pins as shown in figure 3); a sensor (not shown, but see paragraph 35, lines 1-2). Janutta et al. is silent concerning a bottom guide.

However, Owens discloses a sliding wall comprising a guide rail (not numbered, but shown in figure 4) connected to the ground or floor 34, each of said wall elements having a bottom guide 31 engageable in said guide rail.

It would have been obvious to one of ordinary skill in the art to provide Janutta et al. with a lower guide rail, as taught by Owens, to better control the movement of the wall elements.

Claims 32, 36 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Janutta et al. in view of Owens as applied to claims 31, 33-35, 38-42 and 53-60 above, and further in view of Finkel (US 3025574). Finkel discloses a door system comprising a lower first swivel pin 69 arranged proximate a center of a lower horizontal end area of a element A1 and an upper first swivel pin 64 arranged proximate a center of an upper horizontal area of said wall element; a swivel bearing (not numbered, but comprising the hole in 42 as shown in figure 5); a running rail 38, and a running carriage 40.

It would have been obvious to one of ordinary skill in the art to provide Janutta et al., as modified above, with a pivoting system, as taught by Finkel, to better control the pivoting movement of the wall element.

Allowable Subject Matter

Claims 43-52 and 61 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, absent applicant's own disclosure, fails to teach the entire combination of elements set forth in the claimed invention. Specifically, the prior art of record fails to teach the locking element substantially comprising a connection element having a bore hole for receiving said coupling pin, said connection element having an adjusting screw threadably arranged therein and interacting with a locking bevel arranged on a bottom of said at least one of said wall elements, said locking bevel sloping toward one of said planar sides of said at least one of said wall elements. Although references such as Guelck disclose a bevel arrangement, they, *inter alia*, fail to disclose an adjusting screw. Additionally, references such as EP 0 586 854 arguably disclose a bore hole and an adjusting screw, but they at least fail to disclose the locking bevel sloping toward one of the planar sides of the wall element.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Catlett et al. is cited for disclosing a swinging arm system for a pivoting door. Kordes et al. and Sherwood are cited for disclosing a connection system for a sliding wall system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory J. Strimbu/
Primary Examiner, Art Unit 3634